

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DANNY EUGENE DOWNING,

Plaintiff,

v.

Case No. 2:08-cv-009
HON. R. ALLAN EDGAR

LINDA METRISH,

Defendants.

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on January 31, 2011. The Report and Recommendation was duly served on the parties. The Court has received objections from Petitioner. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Petitioner procedurally defaulted five issues presented in his Petition by not complying with a State court order. Petitioner failed to show cause and prejudice for his procedural default. Petitioner argues in his objections that he is entitled to the bargain in his original plea agreement, and that the Respondent's attorney failed to comply with Rule 5 in this proceeding by not filing all of the relevant state court transcripts. Petitioner asserts that he should have received a more favorable sentence. Petitioner's objections are without merit. Petitioner has failed to overcome his procedural default. Moreover, Petitioner has failed to show that his sentence violated federal law.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

Dated: 3/31/2011

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE